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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,598	02/14/2005	Tatsuo Itabashi	112857-425	8820
29175	7590	04/29/2009		
K&L Gates LLP P. O. BOX 1135 CHICAGO, IL 60690			EXAMINER HARPER, LEON JONATHAN	
			ART UNIT 2166	PAPER NUMBER
			MAIL DATE 04/29/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/524,598	<b>Applicant(s)</b> ITABASHI ET AL.	
	<b>Examiner</b> LEON HARPER	<b>Art Unit</b> 2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 26-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/22/2009</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on 1/22/2009 has been entered. Claims 26,27,31,32,38, 40, 42-44, 47, 49 and 50 have been amended. Claims 51-54 have been added. Accordingly, claims 26-54 are pending in this office action.

### ***Response to Arguments***

Applicant's amendments and arguments, filed 1/22/2009, with respect to the rejection(s) of claim(s) 26-54 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made and set forth below

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

Art Unit: 2166

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 26-50 rejected under 35 U.S.C. 103(a) as being unpatentable over US 20010047363 (hereinafter Peng) in view of US 6874017 (hereinafter Inoue).

As for claim 26 Peng discloses: a communication means for performing data communication with an external apparatus (See figure 5, paragraphs 0029, 0033);

Peng however does not disclose: a storage means for storing mobile directory information including information of nearby apparatuses (See paragraphs 0019,; and a controller means for collecting information of accessible nearby apparatuses. And storing the information in the storage means Inoue however does disclose: a storage means for storing information of nearby apparatuses; and a controller means for collecting information of accessible nearby apparatuses and storing the information in the storage means (See column 12 lines 52-57).It would have been obvious to an artisan of ordinary skill in the pertinent at the time the invention was made to have incorporated the teaching of Inoue into the system of Peng. The modification would have been obvious because the two references are concerned with the solution to problem of information processing, therefore there is an implicit motivation to combine these references. In other words, the ordinary skilled artisan, during his/her quest for a solution to the cited problem, would look to the cited references at the time the invention was made. Consequently, the ordinary skilled artisan, would have been

Art Unit: 2166

motivated to combine the cited references since Inoue teaching would enable users of Peng to have receive geographically relevant information (See column 2 lines 50-57).

As for claim 27 the rejection of claim 26 is incorporated and further Inoue discloses: wherein the controller means receives the information of the nearby apparatuses from a space directory (SDR) which stores the information of the nearby apparatuses, and updates the mobile directory information stored in the storage means (See column 12 lines 60-66).

As for claim 28 the rejection of claim 26 is incorporated and further Inoue discloses: wherein the control means receives the information of the nearby apparatuses from a space directory (SDR) which stores the information of the nearby apparatuses, while, in response to a transmission challenge from the space directory (SDR), the control means transmits encrypted data of the challenge created by its own secret key together with a public-key certificate to the space directory (See column 13 lines 1-10).

As for claim 29 the rejection of claim 26 is incorporated and further Peng discloses: wherein the communication means performs Bluetooth wireless communication (See paragraph 0035).

Art Unit: 2166

As for claim 30 the rejection of claim 26 is incorporated and further Peng discloses: wherein the control means periodically collects the information of the accessible nearby apparatuses (See paragraph 0036)

As for claim 31 the rejection of claim 26 is incorporated and further Inoue discloses: wherein the controller means communicates with a personal directory (PDR) which stores original data of the mobile directory information through communication relay means included in the nearby apparatuses, and registers the position of the mobile information processor in the personal directory (PDR) (See column 12 lines 55-65).

Claim 32 is a information processor claim substantially corresponding to the mobile information processor of claim 1 and is thus rejected for the same reasons as set forth in the rejection of claim 26.

As for claim 33 the rejection of claim 32 is incorporated and further discloses: wherein the control means registers position information of the external apparatus (See column 12 lines 40-55).

Claim 34 is a information processor claim substantially corresponding to the mobile information processor of claim 1 and is thus rejected for the same reasons as set forth in the rejection of claim 26.

Claim 35-37 are information processor substantially corresponding to the mobile information processor of claims 27, 28, 29 respectively and are thus rejected for the same reasons as set forth in the rejection of claims 27, 29, 28.

Claims 38-41 are data communication system claims substantially corresponding to the mobile information processor claims of 26-28 and are thus rejected for the same reasons as set forth in the rejection of claims 26-28.

Claims 42-46 are data communication methods substantially corresponding to the mobile information processor claims of 26-28, 30 and are thus rejected for the same reasons as set forth in the rejection of claims 26-28, 30.

Claims 47 and 48 are data communication claims corresponding to the mobile information processor claims of 26-27, 30 and are thus rejected for the same reasons as set forth in the rejection of claims 26-27, 30.

Claims 49 and 50 are computer program product claims corresponding to the mobile information processor claims of 26 and are thus rejected for the same reasons as set forth in the rejection of claims 26.

As for claim 51 the rejection of claim 26 is incorporated and further discloses an acquisition means for acquiring user information of said processor based on said information of at least one of the nearby apparatuses; and a request means for requesting a communication service to a service provider based on the acquired user information (See column 13 lines 15-30) .

As for claim 52 the rejection of claim 51 is incorporated and further discloses a utilization means for utilizing said communication service based on a determination of whether or not said communication service can be provided by said service provider, wherein the determination is based on said user information (See column 13 lines 35-45).

As for claim 53, the rejection of claim 51 is incorporated and further discloses wherein said acquisition means acquires said user information based on an ID of said processor (See column 13 lines 30-47).



Art Unit: 2166

As for claim 54, the rejection of claim 51 is incorporated and further discloses:  
wherein said nearby apparatuses include a nearby access point (See column 12 lines  
53-56).

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LEON HARPER** whose telephone number is (571)272-0759. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2166

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*LJH*  
*Leon J. Harper*  
*April 26, 2009*

/Hosain T Alam/  
Supervisory Patent Examiner, Art Unit 2166